IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9491 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NANJIBHAI KANJIBHAI RATHOD - Petitioner(s)
Versus
GSRTC & 2 - Respondent(s)

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Appearance :
MR MUKESH H RATHOD for Petitioner(s) : 1,
M/S THAKKAR ASSOC. for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order quashing and setting aside the order of dismissal dated 26-12-1994

passed by the respondent No.3.

2. It appears from the record that the petitioner who was serving as clerk with the Gujarat State Road Transport Corporation was subjected to departmental inquiry for remaining unauthorized absent for 54 days from 3-11-1993 to 6-2-1994. Charge of unauthorized absent was held to be proved against the petitioner and thereafter, order of dismissal came to be passed. Petitioner is not challenging the legality and validity of the departmental inquiry and/or the inquiry report. However, he has submitted that in the facts and circumstances of the case, more particularly, for remaining absent for 54 days only, the punishment of dismissal is too harsh and disproportionate to the misconduct/charge proved against the petitioner. Shri Rathod, learned advocate appearing on behalf of the petitioner has submitted that the petitioner is ready and willing to forgo the back wages if the order of punishment is reconsidered and the petitioner is reinstated in service.

3. In the facts and circumstances of the case, let the petitioner submit appropriate application/representation

qua quantum of punishment only and considering the facts and circumstances of the case, the respondent authority is directed to consider the same in accordance with law and on merits and considering the gravity of the misconduct i.e. remaining absent only for 54 days and reconsider the punishment and pass appropriate order in accordance with law and on merits, considering the observations as stated hereinabove within a period of three months from the date of receipt of this order.

4. With this, the present Special Civil Application is disposed of at this stage. Rule is discharged. No costs. DS permitted.

(M.R.SHAH,J.)

shekhar/-